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# NEWS RELEASE

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## Supreme Court Grants Review in Sentencing Cases and Sets Expedited Briefing Schedule

San Francisco—The California Supreme Court, at its regular petition conference on Wednesday, February 7, 2007, granted review in five cases presenting claims of sentencing error under the United States Supreme Court's decision in *Cunningham v. California* (Jan. 22, 2007, No. 05-6551) 549 U.S. \_\_ [2007 WL 135687].

In *Cunningham*, the court held that the middle term is the maximum sentence that may be imposed by a judge unless an aggravating factor is proved to the jury beyond a reasonable doubt or is established by the defendant's admissions or prior convictions.

Each of these five cases presents the following issues in different factual contexts: (1) Did the trial court violate the defendant's Sixth Amendment right to a jury trial, as interpreted in *Cunningham* by imposing an upper-term sentence based on aggravating factors not found true by the jury? (2) If so, what is the proper remedy?

The granted cases are *People v. French*, S148845; *People v. Hernandez*, S148974; *People v. Pardo*, S148914; *People v. Mvuemba*, S149247; and *People v. Sandoval*, S148917. The court also ordered additional related briefing in a pending case, *People v. Towne*, S125677.

These cases fall generally into three categories: (1) cases in which the trial court imposed an upper-term sentence based on aggravating factors that had no relationship to prior convictions (*Mvuemba* and *Sandoval*); (2) cases in which the trial court imposed an upper-term sentence based at least in part on one or more aggravating factors that relate to the defendant's prior convictions (*Hernandez*, *Pardo*, and *Towne*); and (3) cases in which the defendant entered a plea of guilty or no contest (*French*).

The court set an expedited briefing schedule in each of these matters under which briefing (including briefs by potential amici curiae) is targeted for completion by the end of March 2007.

(over)

Each of the court's orders also contained this final paragraph:

“Because it is important for the administration of justice that the trial courts of California be provided timely guidance, the court notes that its action in this case is not intended to dissuade the Legislature from promptly revising the existing California sentencing statutes in light of the United States Supreme Court's decision in *Cunningham v. California*.”

At the same time the court granted review in these cases, the court also granted and held 17 additional cases, deferred briefing in those matters, and returned the records in those matters to the Courts of Appeal.

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